

1 **LENARD E. SCHWARTZER**
2 6655 W. Sahara Avenue, Suite B200-107
3 Las Vegas, NV 89146
4 (702) 307-2022

5 TRUSTEE

6
7 **UNITED STATES BANKRUPTCY APPELLATE PANEL**
8 **OF THE NINTH CIRCUIT**

9 In re

10 PARNELL COLVIN, III

11 Debtor.

BAP No. NV-25-1101

BK. No. 25-11109-abl

13
14 PARNELL COLVIN, III

15 Appellant

16 v.

17 LENARD E. SCHWARTZER, Chapter
18 7 Trustee

19 Appellee

20
21 **MOTION FOR SUMMARY AFFIRMANCE OR DISMISSAL OF**
22 **APPEAL**

23 Appellee Lenard E. Schwartzer. Chapter 7 Trustee (“Trustee”), in the
24 dismissed underlying bankruptcy case, moves this Court for summary affirmance of
25 the Bankruptcy Court’s ORDER DISMISSING CASE WITH 3 YEAR BAR TO
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27
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1 REFILING [Dockets 73 and 75¹] or dismissal of this appeal because of the
2 Debtor/Appellant's failure to prosecute this appeal.

3 The Debtor/Appellant has:

- 4 (a) failed to pay the filing fee as required by this Court's ORDER
5 REGARDING NUMBER OF APPEALS AND PARTIES (Document 11),
6 (b) failed to file a designation of record for appeal or a statement of issues
7 as required by Bankruptcy Rule 8009,
8 (c) failed to file opening brief and appendix by AUGUST 11, 2025 as
9 required by this Court's BRIEFING ORDER (Document 12-1),
10 (d) failed to order and provide transcripts, including a transcript of the
11 Bankruptcy Court's oral findings of fact and conclusions of law, as required
12 by Bankruptcy Rules 8009(a)(4) and 8010 and BAP Rule 8009-1, and
13 (e) failed perfect and prosecute his appeal in a manner and within time
14 limits as required by BAP Rule 9010-2.

15 The dockets of this Court and the Bankruptcy Court² show the lack of any
16 compliance with the rules and orders relating to the prosecution of this appeal. This
17 Court's Briefing Order specifically warns the Debtor/Appellant:

18
19 **FAILURE OF APPELLANT TO TIMELY PROVIDE AN**
20 **ADEQUATE OPENING BRIEF AND ADEQUATE EXCERPTS**
21 **OF THE RECORD IN COMPLIANCE WITH THE**
22 **GOVERNING RULES MAY RESULT IN DISMISSAL OF THE**
23 **APPEAL, OR IN SUMMARY AFFIRMANCE OF THE RULING**
ON APPEAL. See *Morrissey v. Stuteville (In re Morrissey)*, 349 F.3d
1187 (9th Cir. 2003). [Bold type in original].

24 ¹ The orders are identical

25
26 ² See STATUS REPORT REGARDING RECORD ON APPEAL dated August 4, 2025 attached as Exhibit A. This
27 Court may take judicial notice of the bankruptcy court docket. FRE 201; *O'Rourke v. Seaboard Surety Co. (In re E.R.*
28 *Fegert, Inc.)*, 887 F.2d 955, 957-58 (9th Cir. 1989); *United States ex rel. Robinson Rancheria Citizens Council v.*
Borneo, Inc., 971 F.2d 244, 248 (9th Cir. 1992).

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2 As stated in Rule 8013(a)-2:

3 When an appellant fails to file an opening brief timely, or otherwise
4 fails to comply with rules or orders regarding processing the appeal, the
5 BAP Clerk, after notice, may enter an order dismissing the appeal. The
6 order dismissing the appeal is subject to reconsideration by the Panel if
a written request for judicial review is received within fourteen (14)
days of the entry of the order.

7 As stated in *McCarthy v. Prince (In re McCarthy)*, 230 B.R. 414, 416-17 (9th
8 Cir. BAP 1999):

9
10 Whenever findings of fact and conclusions of law are rendered orally
11 on the record, it is mandatory that an appellant designate the
12 transcript under Rule 8006. There is no other way for an appellate
court to be able to fathom the trial court's action.

13 In this case, the Debtor/Appellant has failed to order a transcript
14 Judge Landis' extensive (one hour) oral statement of his findings of fact and
15 conclusions of law.

16 This record also reflects that this Debtor is no stranger to Court rules,
17 as he has filed ten bankruptcy cases (nine of which have been dismissed).

18
19 RELIEF REQUESTED

20 Trustee requests that the ORDER DISMISSING CASE WITH 3 YEAR BAR
21 TO REFILING [Docket 73 and 75] be summarily affirmed or that this appeal be
22 dismissed.

23 DATED: September 2, 2025

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LENARD E. SCHWARTZER, TRUSTEE

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DECLARATION OF TRUSTEE

I declare, under penalty of perjury, that the foregoing is true and correct, to
the best of my knowledge, information and belief.

DATED: September 2, 2025



LENARD E. SCHWARTZER

EXHIBIT A

NVB 8010-1 (Rev. 5/16)

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

IN RE:

PARNELL COLVIN III

Debtor(s)

BK-25-11109-abl
CHAPTER 7

Appeal Reference Number:

25-16 AND
25-19

BAP Number:

25-1101 and
25-1115

PARNELL COLVIN III

Appellant(s)

vs

STATUS REPORT
REGARDING RECORD
ON APPEAL

LENARD SCHWARTZER et al

Appellee(s)

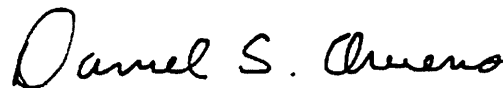
To: Bankruptcy Appellate Panel
125 South Grand Avenue,
Pasadena, CA 91105

U.S. Trustee

The record on the above-entitled appeal has not been forwarded for the following reason(s):

- * No Designation of Record Filed
- * No Statement of Issues Filed
- * No Notice Regarding Transcripts Filed
- * No Reporters Transcript Filed
- * Other: APPEAL FILING FEE HAS NOT BEEN PAID

Dated: 8/4/25



Daniel S. Owens
Clerk of Court